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IN THE UNITED STATES DISTRICT COURT  
NORTHERN DISTRICT OF CALIFORNIA  
SAN JOSE DIVISION

JAMES WANG, INDIVIDUALLY AND ON  
BEHALF OF ALL OTHERS SIMILARLY  
SITUATED,

Plaintiffs,

vs.

OCZ TECHNOLOGY GROUP, INC.,

Defendant.

Case No.: CV11-01415 PSG

**PLAINTIFF'S REQUEST FOR JUDICIAL  
NOTICE IN SUPPORT OF PLAINTIFF'S  
OPPOSITION TO MOTION TO DISMISS**

Date: February 28, 2012

Time: 10:00 a.m.

Courtroom 5

The Honorable Paul S. Grewal

Complaint filed: March 24, 2011

Pursuant to Federal Rule of Evidence 201 Plaintiffs hereby respectfully request that the Court take judicial notice of the following attached exhibits in connection with their memoranda of law in opposition to Defendants' motions to dismiss Plaintiff's complaint:

Exhibit 1 - Printout of a portion of a discussion thread from OCZ's forum

Exhibit 2 - Printout of a public response posted by OCZ on a forum controlled by OCZ concerning the Products and Predecessor Products along with consumer responses

Exhibit 3 - OCZ's Product Sheet for the Vertex 2

Exhibit 4 - Discussion thread on Anandtech.com's forum

1 Exhibit 5 - Enthusiast website with coverage of OCZ's competitors' responses

2 Exhibit 6 - Pictures of the warranty card included inside the Products' packaging

3 In ruling on a motion to dismiss, the court may consider matters which may be judicially  
 4 noticed pursuant to Federal Rule of Evidence 201 without converting the motion to dismiss into  
 5 one for summary judgment. *Barron v. Reich*, 13 F.3d 1370, 1377 (9th Cir.1994); *Isuzu Motors*  
 6 *Ltd. v. Consumers Union of United States, Inc.*, 12 F. Supp.2d 1035, 1042 (C.D. Cal. 1998).  
 7 Courts may also take judicial notice of any facts that, as here, are "not subject to reasonable  
 8 dispute in that it is either (1) generally known within the territorial jurisdiction of the trial court or  
 9 (2) capable of accurate and ready determination by resort to sources whose accuracy cannot  
 10 reasonably be questioned." Fed. R. Evid. 201(b). "Even if the document is not attached to a  
 11 complaint, it may be incorporated by reference into a complaint if the plaintiff refers extensively  
 12 to the document or the document forms the basis of the plaintiffs claims." *United States v.*  
 13 *Ritchie*, 343 F.3d 903, 908 (9<sup>th</sup> Cir. 2003).

14 Dated: February 7, 2012

Respectfully submitted,

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 16 **THE HINTON LAW FIRM**

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